



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

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October 14, 2011

Mr. Morgan Elmer  
National Park Service  
P.O. Box 25287  
Environmental Division  
Denver, CO 80255-0287

SUBJECT: Biscayne National Park Draft Environmental Impact Statement/General  
Management Plan, Miami-Dade County, Florida

Dear Mr. Elmer:

The U.S. Environmental Protection Agency (EPA) has reviewed the referenced Draft Environmental Impact Statement (DEIS) in accordance with its responsibilities under Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA). The National Park Service (NPS) proposes changes to General Management Plan of the Biscayne National Park located in Miami-Dade County, Florida. Biscayne National Monument was authorized by an act of Congress in 1968, expanded in 1974 and redesignated as a national park and expanded again in 1980. The last comprehensive management plan for the park was completed in 1983. Since then, much has changed to include growth in population near the park, visitor use patterns, and visitors have brought new recreation into the park.

The DEIS examines 5 alternatives for managing Biscayne National Park for the next 15 to 20 years. It also analyzes the impacts of implementing each of the alternatives. Alternative 1 is the "no action" alternative and consists of the existing park management and trends and serves as a basis for comparison in evaluating the other alternatives. Alternative 2 would emphasize the recreational use of the park while providing for resource protection as governed by law, policy or resource sensitivity. Alternative 3 would allow all visitors a full range of visitor experiences throughout most of the park and would use a permit system to authorize a limited number of visitors to access some areas of the park. Alternative 4 is the NPS's preferred alternative and would emphasize strong natural and cultural resource protection while providing a diversity of visitor experiences. Alternative 5 would promote the protection of natural resources, including taking actions to optimize conditions for protection and restoration.

EPA is concerned about the lack of discussion in the DEIS to support the NPS's choosing Alternative 4 (Preferred Alternative) over Alternative 5 (Environmentally Preferred Alternative). EPA appreciates the NPS balancing the needs of meeting visitor experience and enhancing recreational opportunity with the needs of protecting sensitive cultural and ecological resources. We understand that Alternative 4 balances those needs; however, the NPS needs to better discuss the rationale for choosing Alternative 4 over Alternative 5 in the FEIS.

EPA is also concerned about the lack of comprehensive cumulative impact analysis as presented in the DEIS. The NPS does present the cumulative impacts associated with each alternative; however, the overarching cumulative impact analysis lacks a holistic approach to discussing the present and foreseeable actions that are associated with Turkey Point Power Plant, the Comprehensive Everglades Restoration Plan, the Reef Initiative, etc. EPA recommends that the NPS better articulate and describe cumulative impacts in the FEIS.

Additionally, EPA is concerned with the lack of resource agency documentation for compliance coordination for Coastal Zone Management Act, Endangered Species Act, Section 106 National Historic Preservation Act and Magnuson-Stevens Fisheries Conservation and Management Act. The NPS briefly describes coordination efforts, but fails to reference and document resource agency coordination.

We rate this document EC-1 (Environmental Concerns-with adequate information). Please see the attached summary of definitions for EPA ratings and detailed comments which provide more specifics regarding environmental concerns, additional information requested, and EPA recommendations to address these concerns.

We appreciate the opportunity to review the proposed action. Please contact Jamie Higgins at (404) 562-9681 if you want to discuss our comments.

Sincerely,

A handwritten signature in dark ink, appearing to read "Heinz Mueller", with a long horizontal flourish extending to the right.

Heinz J. Mueller, Chief  
NEPA Program Office  
Office of Policy and Management

Enclosures

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
ENVIRONMENTAL IMPACT STATEMENT (EIS) RATING SYSTEM CRITERIA**

EPA has developed a set of criteria for rating Draft EISs. The rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the draft.

**RATING THE ENVIRONMENTAL IMPACT OF THE ACTION**

- \$ LO (Lack of Objections): The review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action.
- \$ EC (Environmental Concerns): The review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact.
- \$ EO (Environmental Objections): The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). The basis for environmental objections can include situations:
  - 1. Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;
  - 2. Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;
  - 3. Where there is a violation of an EPA policy declaration;
  - 4. Where there are no applicable standards or where applicable standards will not be violated but there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives; or
  - 5. Where proceeding with the proposed action would set a precedent for future actions that collectively could result in significant environmental impacts.
- \$ EU (Environmentally Unsatisfactory): The review has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed. The basis for an environmentally unsatisfactory determination consists of identification of environmentally objectionable impacts as defined above and one or more of the following conditions:
  - 1. The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;
  - 2. There are no applicable standards but the severity, duration, or geographical scope of the impacts associated with the proposed action warrant special attention; or
  - 3. The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.

**RATING THE ADEQUACY OF THE ENVIRONMENTAL IMPACT STATEMENT (EIS)**

- \$ 1 (Adequate): The Draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.
- \$ 2 (Insufficient Information): The Draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the Draft EIS, which could reduce the environmental impacts of the proposal. The identified additional information, data, analyses, or discussion should be included in the Final EIS.
- \$ 3 (Inadequate): The Draft EIS does not adequately assess the potentially significant environmental impacts of the proposal, or the reviewer has identified new, reasonably available, alternatives, that are outside of the spectrum of alternatives analyzed in the Draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. The identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. This rating indicates EPA's belief that the Draft EIS does not meet the purposes of NEPA and/or the Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised Draft EIS.

**Detailed Comments**  
**Biscayne National Park DEIS/General Management Plan**

**U.S. Environmental Protection Agency Comments:**

1. Overall, there is lack of visual displays within the DEIS. Particularly, there is a lack of photographs. For example, displaying photos of Stiltsville structures on page 60 would assist the reader in understanding the structural nature of the buildings. Additionally, photos of sensitive habitats and cultural structures would better assist readers in understanding the delicate nature of these resources. EPA recommends that the NPS visually enhance the FEIS by displaying more photos within the FEIS.
2. On page 50 (Dredged Navigation Channel Zone table), within the Management Actions and facilities column, sentence 4, the NPS states, “managing these zones for transportation and public safety (there might be overlapping jurisdiction with other agencies coordination and cooperation with other agencies would occur)”. Has the NPS consulted or coordinated with these other agencies to solicit their input? The NPS is relying upon other governmental agencies to conduct public safety actions as an alternative feature without identifying or discussing those agencies acknowledgement of that role. EPA recommends that the NPS identify public safety agencies that have agreed to conduct more robust public safety duties within the park.
3. On page 60 (Miami-Area Visitor Center and Ragged Keys), the NPS discusses the possibility of opening a satellite visitors education center within the City of Miami/Dade County as well as discusses the acquisition of Ragged Keys and the uncertainty of the funding of these actions. Should a satellite visitor’s center be opened or the Keys are acquisitioned, would the NPS conduct separate NEPA actions? EPA recommends that the NPS more thoroughly discuss these actions and discuss whether these actions would require future NEPA documentation in the FEIS.
4. On page 96 (Wetlands), the NPS discusses possible construction activities impacting wetlands. Does NPS anticipate getting a 404 wetlands permit? If so, the NPS should discuss this briefly in this section.
5. Environmentally Preferred Alternative: EPA had several concerns related to this section as outlined below:
  - a. On page 104 (Environmentally Preferable Alternative), the NPS has outlined their ranking scale and criteria, but doesn’t discuss who did the ranking. Were these all NPS personnel or were other stakeholders, governmental agencies and/or academia involved? EPA recommends that the NPS identify who did the ranking and briefly discuss their credentials in the FEIS.
  - b. Why is Alternative 5 considered the Environmentally Preferred Alternative over Alternative 4 when they have the same total cumulative ranking of 16 points (page 104, Table 4)? This should be thoroughly discussed and the rationale for labeling Alternative 5 as the Environmentally Preferred Alternative should be expanded upon. EPA recommends NPS better

describe the rationale for selecting Alternative 5 as the Environmentally Preferred Alternative especially given that both Alternative 4 and 5 had the same ranking.

c. The NPS briefly discussed comparing and contrasting Alternatives 1, 2, and 3 as well summarizing each alternative in a table format. The NPS also ranked and compared each alternative based on ranking criteria. However, there is no discussion regarding the NPS's decision making process in selecting Alternative 4 (Preferred Alternative) over Alternative 5 (Environmentally Preferred Alternative). EPA appreciates the NPS balancing the needs of recreational users with the needs of protecting sensitive cultural and ecological resources; however, there needs to be a robust discussion explaining this rationale. EPA recommends that NPS discuss the differences between Alternative 4 and 5 by comparing and contrasting the two Alternatives. Further, EPA recommends that in the FEIS the NPS explain their rationale for choosing Alternative 4 over the Alternative 5 especially given that Alternative 5 has been identified as the Environmentally Preferred Alternative.

#### 6. Cumulative Impact Analysis. EPA had concerns related to the cumulative impact analysis.

a. EPA thinks the cumulative impact analysis conducted for each alternative is a good approach; however, some cumulative impacts are overarching and should be better explained in the Cumulative Impact Introduction (page 185). For example, little is discussed regarding the Turkey Point Power Plant expansion project (additional comments regarding Turkey Point are below). Additionally, there is little analysis discussing the potential impacts of the cumulative impacts of the Comprehensive Everglades Restoration Plan, Biscayne Bay Coastal Wetlands Project and Coral Reef Initiative. Although the NPS mentions these projects, the NPS doesn't analyze or discuss the holistic positive or negative impacts of these projects. EPA recommends that the NPS more thoroughly analyze and discuss the overarching cumulative impacts that are associated with all the alternatives.

b. As previously discussed (see above), the NPS doesn't thoroughly discuss the Turkey Point Power Plant expansion project. Florida Power and Light (FPL) is currently proposing expanding their energy operation at Turkey Point and is currently pursuing an NRC "Combined Construction and Operating License (COL)" application for two new 1,117-MWe (megawatt electrical) Westinghouse AP1000 reactors (Units 6 and 7). Will the addition of 2 new nuclear reactors adjacent Biscayne National Park affect any of the 5 alternatives as they have been identified or structured? Will the additional reactors combined with the implementation of the Preferred Alternative positively or negatively impact the cultural and/or ecological resources within the Park? EPA recommends the Final General Mgt Plan/EIS for Biscayne National Park should better explain and discuss foreseeable or future impacts should these reactors come online.

#### 7. Consultation and Coordination: EPA had several concerns regarding the compliance coordination documentation with resource agencies. These concerns are listed below.

a. Overall, EPA is concerned with the time frame in which the NPS coordinated with resource agencies (National Oceanic and Atmospheric Administration (NOAA) and U.S. Fish and Wildlife Service (USFW)) regarding threatened and endangered species and Essential Fish

Habitat (EFH)(page 288). Circumstances and habitat can change in the span of 10 years. New species could be listed or de-listed and habitat could be added as critical habitat. EPA recommends that the NPS again coordinate with NOAA and USFW to ensure that the proposed GMP and preferred alternative doesn't impact threatened and endangered species and EFH. Further, EPA recommends this documentation be included within the FEIS.

b. Endangered Species Act (ESA): On pages 287-288, the NPS discusses ESA coordination with NOAA and the USFW; however, there is no discussion as to the final ESA determination from USFW and/or NOAA. The NPS does include a discussion of each alternative's impacts to each endangered species (Chapter 4, "Section 7 Determination of Effect"); however, the NPS doesn't cite or reference the documentation that substantiates the discussion. What were the NPS's ESA determinations and did USFW and NOAA concur with these determinations? Appendix D does document coordination with NOAA regarding ESA (letter dated October 31, 2000), but there is no similar documentation from the USFW. EPA recommends that NPS, in the FEIS, more thoroughly discuss positive or negative impacts to ESA on page 287-288 ("Consultation with Other Agencies/Officials and Organizations (to Date)") as well as discuss any feedback from USFW and/or NOAA, and document all correspondence with and from the NOAA and USFW regarding ESA in Appendix D (Consultation Letters).

c. Magnuson-Stevens Fishery Conservation and Management Act (MSFCA): On page 288, the NPS discusses their coordination efforts with the NOAA regarding the proposed plans possible impacts to Essential Fish Habitat (EFH). However, there is no documentation in Appendix D regarding this coordination especially concerning NOAA's (National Marine Fisheries Service) comments and/or concerns regarding the proposed plan's possible positive or negative impacts to EFH. EPA recommends the NPS include all formal and informal documentation from NOAA regarding the GMP's impacts to EFH in the FEIS.

c. Coastal Zone Management Act (CZMA): On page 288-289, the NPS discusses coordination with the Florida Department of Environmental Protection (FDEP) regarding the GMP's consistency with the state's coastal zone management plan. The NPS indicates that a consistency determination requested from FDEP, but there was no discussion as to the state issuing a consistency determination. What is the status of the consistency determination? Also, there was no correspondence from or to FDEP regarding CZMA consistency determination listed in Appendix D. EPA recommends that the NPS better discuss the CZMA consistency determination in the FEIS as well as include any correspondence from or to FDEP in Appendix D.

d. Section 106 (National Historic Preservation Act (NHPA)) Consultation: On page 289, the NPS discusses NHPA coordination with the State Historic Preservation Officer (SHPO). The NPS indicates that the SHPO "responded positively to the request to consult", but doesn't discuss the outcome of the consultation. Did the SHPO issue a "no effect determination"? EPA recommends the NPS better discuss the SHPO's comments and feedback regarding the GMP and Preferred Alternative in the FEIS. Additionally, EPA recommends that all correspondence to and from the SHPO be included in Appendix D.